THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.5348 OF 2004

DATED: 26-6-2007

Between:

The Depot Manager, APSRTC,
Sathupalli Depot, Khammam District.

.. Petitioner

and

G. Venkateswar Rao and another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.5348 OF 2004

ORDER:

This writ petition is filed seeking a certiorari to call for the recordings pertaining to the award, dated 03.9.2002, made in I.D.No.8 of 2001, on the file of the Labour Court, Warangal, and quash the same as arbitrary and illegal.

The petitioner is the management and the 1st respondent is the workman. It appears, after conducting a regular enquiry into certain cash and ticket irregularities alleged to have committed by the 1st respondent, a punishment of deferment of annual increments for three years with cumulative effect was imposed on him while treating the period of suspension as not on duty. Aggrieved by the same, though with a delay, the 1st respondent approached the conciliation authority and, on failure of the conciliation proceedings, the matter was referred to the Labour Court, Warangal under Section 10 (1) (d) of the Industrial Disputes Act (for short 'the Act') for adjudication of the matter. The Labour Court, after detailed consideration of the entire material placed before it, came to the conclusion that the punishment of deferment of annual increments for three years with cumulative effect is disproportionate to that of the misconduct proved and, accordingly, modified the impugned punishment to that of deferment of three annual increments with cumulative effect from the date of impugned order to

the date of award and the period of suspension to be treated as 'on duty', and directed the management to release three deferred annual increments to the workman with monetary effect from the date of award. Aggrieved by the same, the management preferred this writ petition.

The learned counsel for the petitioner-management strenuously contended that absolutely there was no basis for the Labour Court to give a finding that a pregnant woman passenger was traveling in the bus at the time of check and that was the reason why the workman did not issue tickets to five passengers, though the bus has crossed more than four stages, and also to held that it is unfortunate that neither the enquiry officer nor the disciplinary authority did appreciate the humanitarian approach adopted by the workman in helping a pregnant lady to reach the hospital under pressure by her attendants, taking risk by refraining from collection of fare from five passengers or issuing tickets to them or closure of S.R., but the enquiry officer held all charges to have been proved as per admission of the delinquent and as testified by the T.T.I., without ruling out the possibility of the presence of a pregnant woman passenger in the bus.

On the other hand, the learned counsel for the respondents contended that the 1st respondent-workman, right from the spot explanation till the end of the enquiry, had consistently pleaded that since a pregnant woman passenger was traveling in the bus and as there was urgency for her to reach the hospital, he had to rush the bus to the hospital without issuing tickets and that was properly appreciated by the Labour Court and, as such, rightly modified the punishment imposed by the management. No illegality or infirmity has been committed by the Labour Court calling for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side. Perused the impugned award and other material made available on record.

On perusal of the record of the Labour Court, it is clear that in the spot explanation given by the 1st respondent-workman, he had categorically stated that one lady pregnant passenger, who was traveling in the bus, was suffering with labour pains and she was to go to Singareni Hospital. Therefore, he had to rush the bus to the hospital and in the process he did not collect the fare and issue tickets. This is also the explanation submitted by him to the charge sheet issued by the disciplinary authority as well as to the show cause notice. Further, it was nowhere pleaded by the management that no pregnant lady passenger was traveling in the bus on the day of check.

Under these circumstances, it cannot be said that the award passed by the Labour Court suffers from any legal infirmity calling for interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and is liable to be dismissed.

The writ petition is, accordingly, dismissed. No costs.

C.V. RAMULU, J

26th June, 2007.

IBL